

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

ROBERT BOGGS,

No. 03:09-CV-116-ST

Plaintiff,

ORDER

v.

JOHN K. HOOVER, JOHN C. BRADLEY,  
CHARLES R. FRENCH, JO'EY STEWART,  
AGNES SOWLE, and KATHRYN A. SHORT,

Defendants.

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HERNANDEZ, District Judge:

Magistrate Judge Janice Stewart issued a Findings and Recommendation (#105) on May 23, 2011, in which she recommends that the Court grant Defendants Sowle and Short's Motion to Dismiss Amended Complaint (docket #89) and Defendants Hoover, Bradley, and French's Motion for Summary Judgment Against First Amended Complaint (docket #91). Plaintiff Boggs timely filed objections to the Findings and Recommendation. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

I have carefully considered Plaintiff Boggs's objections and conclude that the objections do not provide a basis to modify the Findings and Recommendation.<sup>1</sup> I have also reviewed the

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<sup>1</sup>For clarification, I believe the first sentence on page 12 should read "Boggs contends that the necessary implication of Judge King's Order adopting the Boggs II F&R is that Tibbetts bars defendants' bid for qualified immunity."

pertinent portions of the record *de novo* and find no error in the Magistrate Judge's Findings and Recommendation.

### CONCLUSION

The Court ADOPTS Magistrate Judge Stewart's Findings and Recommendation (#105) and, therefore, Defendants Sowle and Short's Motion to Dismiss Amended Complaint (docket #89) and Defendants Hoover, Bradley, and French's Motion for Summary Judgment Against the First Amended Complaint (docket #91) are granted. Furthermore, to the extent that any portion of the Findings and Recommendation adopted in Robert Boggs v. Schrunk, et al, Case No. 07-CV-954-ST may be construed to conflict with this decision, the prior ruling is vacated.

IT IS SO ORDERED.

DATED this 1st day of August, 2011.

/s/ Marco Hernandez  
MARCO HERNANDEZ  
United States District Judge